

1 MS. VEENSTRA: Russell Castro.

2 RUSSELL CASTRO, Sworn

3 THE WITNESS: Good morning.

4 THE COURT: Good morning.

5 DIRECT EXAMINATION

6 BY MS. VEENSTRA:

7 Q. Could you please introduce yourself for the
8 record?

9 A. Russell Castro, C-A-S-T-R-O.

10 Q. And how are you employed, sir?

11 A. Employed with the City of Attleboro. Police
12 officer.

13 Q. And how long have you been a police officer with
14 the City of Attleboro?

15 A. Approximately ten years.

16 Q. I'd like to direct your attention, Officer
17 Castro, to the month of May in the year 2001, and
18 ask you whether you were dispatched along with a
19 number of other officers to AMSA located in the
20 City of Attleboro?

21 A. Yes. Originally Sturdy Hospital.

22 Q. Okay. And at some point did you respond to AMSA?

23 A. Yes.

24 Q. And what other officers, if you recall, also
25 responded to that location?

1 A. Officer Larsen and Detective Otrando.

2 Q. At that time did you have an opportunity to view
3 the facility and some video surveillance?

4 A. Yes.

5 Q. Can you describe as best you recall what you saw
6 depicted on the video surveillance?

7 A. On the video surveillance we seen the male and a
8 female, Mr. Ciambriello and Kiernan the female --

9 Q. The alleged victim?

10 A. -- the alleged victim walking through a room. I
11 believe it was the money processing room. At
12 that point the male had his right arm around her
13 backside, lower back, upper buttocks, walking
14 through the room. Then on another view, more of
15 a back view, they walk down a hallway with the
16 hand on the back and entering an office; and
17 several minutes later, the female exited the
18 office and went to the left.

19 Q. Can you estimate, if you can, about how long they
20 were in that office?

21 A. I'd say less than four minutes.

22 Q. Did you ever see any tape which -- or segment or
23 portion of a tape which may have depicted the
24 inside of that office?

25 A. No.

1 Q. Did you hear any words that were spoken when
2 viewing that tape?

3 A. Not that I recall.

4 Q. Did you note any obvious facial expressions or
5 expressions of demeanor on either the alleged
6 victim or Mr. Ciambriello?

7 A. No, I did not.

8 Q. Now, I'm going to direct your attention to later,
9 much later in the investigation. Were you asked
10 by Sergeant Otrando of your department to bring
11 some tapes to the Raynham Police Department,
12 specifically Deputy Chief Louis Pacheco?

13 A. Yes.

14 Q. And do you know what the purpose of that was?

15 A. For further investigation to try to get any other
16 information out of the tapes.

17 Q. And did you bring some tapes to Deputy Chief
18 Pacheco?

19 A. Yes, I did.

20 Q. And how many did you bring?

21 A. Three.

22 Q. And were they labeled?

23 A. I believe they were labeled.

24 Q. And how were they labeled?

25 A. A, B, and C.

1 Q. And did you have an opportunity to work with
2 Deputy Chief Pacheco and view those tapes?

3 A. Yes.

4 Q. And can you -- let me ask you. Was he able to
5 retrieve some images from those tapes?

6 A. Yes.

7 Q. And do you know if those were then transferred
8 onto a videotape?

9 A. Yes, they were.

10 Q. And do you know if a copy of that videotape was
11 provided to me?

12 A. I brought it back to Sergeant Otrando, and I
13 believe he's given it to you, yes.

14 Q. And did you have an opportunity to view that
15 tape?

16 A. Yes, I did.

17 Q. And can you describe what, if anything, was
18 depicted on the tape? What was depicted? What
19 did you see?

20 A. The tape that was made?

21 Q. Yes.

22 A. In the first scene you're going to see -- I
23 believe it's like the cashiers room where they
24 check out. The trucks will come in and go. I
25 believe that's the room it is. You're going to

1 see a reflection in door number 1's window of a
2 symbol of a male and a female walking through
3 that room. The male has his arm around that
4 female's backside.

5 Q. Did you see anything else depicted on that tape?

6 A. Yeah. Several minutes later they were seen
7 walking down a hallway. I refer to it as a money
8 cashing room because there was all counting
9 machines there, and the male and the female were
10 walking down the corridor. The male has his arm
11 around the backside of the victim; and then as
12 they're coming off the screen, you can see the
13 hand, his left hand come up to the elbow.

14 Q. Okay. And that was depicted on the tape?

15 A. Yes.

16 Q. Now, you said that you saw a similar scene at the
17 night -- on the night of the alleged incident; is
18 that right?

19 A. Yes.

20 Q. What is the difference between those two
21 depictions of the two of them coming down that
22 hallway? What was the difference between them?

23 A. On this one here they're coming at the camera.
24 The one that I viewed at the scene, they were
25 walking -- the camera was the backside of them,

1 more toward the backside of them.

2 Q. Okay. While walking down that hallway -- strike
3 that. Did you notice or -- describe what else
4 was depicted on that tape.

5 A. Later on, I believe it was like 1900 hours, the
6 female, the alleged victim comes up, puts a soda
7 can on the door rim. It's like a shelf on door
8 #2, I believe it was. And several minutes later
9 she walks back to that, and it appears that the
10 defendant's checking in or cashing out a truck,
11 because you can hear -- you can't really hear,
12 but you can hear the money banging on the counter
13 in one of the volumes; and then the alleged
14 victim is standing to the left at door 2 which is
15 probably like three to four feet from door 1, and
16 she's handing the alleged defendant looks like
17 rubber bands to strap the money.

18 Q. Would it be fair to say they appear to be working
19 together?

20 A. Yes.

21 Q. Did it appear or sound as if there was more than
22 the alleged victim and Mr. Ciambriello in that
23 immediate vicinity?

24 A. Yes.

25 Q. There were more than those two voices?

1 A. I don't know about the voice, but you can believe
2 that there's two males there and the female. I'd
3 have to view it.

4 Q. The original tapes that you brought to Raynham
5 Police Department Deputy Chief Pacheco, were
6 those subsequently given back to you?

7 A. Yes.

8 Q. And you said that -- or strike that. Did you
9 turn those over to someone?

10 A. Yes, I did.

11 Q. Who did you turn those over to?

12 A. I returned them back to Sergeant Otrando.

13 MS. VEENSTRA: If I could have one
14 moment, your Honor? I have no further questions
15 of this witness.

16 THE COURT: Mr. Ardito.

17 CROSS EXAMINATION

18 BY MR. ARDITO:

19 Q. Detective, did you happen to see any tape of
20 them -- when I mean them, I mean Mr. Ciambriello
21 and Ms. Kiernan. Did you ever see any tape of
22 them working together?

23 A. Just that one at the end of that made tape by
24 Chief Pacheco.

25 Q. And which tape -- could you describe that? I'm

1 not sure --

2 A. It was -- they were at the two doors that I just
3 described, door 2 and door 1. She appeared to be
4 handing him elastics.

5 Q. And that was the one that allegedly they're
6 working together after the incident?

7 A. Yes.

8 Q. Nothing prior to?

9 A. Not to my recollection, no.

10 Q. Did you see any video or any tape of another
11 woman in the building?

12 A. I did not, no.

13 Q. Did you see the video of the alleged victim
14 leaving the area where she alleged the assault
15 took place?

16 A. On the night of it happening?

17 Q. Yes.

18 A. The night of it happening, they left I guess it
19 was the office area. They left the office area.
20 She left the office area.

21 Q. And isn't it true it was a clear picture of her
22 leaving? She was walking towards the camera?

23 A. She walked out and took a left.

24 Q. And you could see her very plainly?

25 A. I could see her. I couldn't see her face if

1 that's what you're asking me.

2 Q. All right. What about her clothes?

3 A. I don't recall her clothes.

4 Q. You can't tell us if her clothes were ripped or
5 torn --

6 A. No.

7 Q. -- or together, not together?

8 A. No, I don't have --

9 Q. You have no recollection?

10 A. No.

11 MR. ARDITO: No further questions,
12 judge.

13 THE COURT: Ms. Veenstra?

14 REDIRECT EXAMINATION

15 BY MS. VEENSTRA:

16 Q. Let me ask you, Officer Castro, if her clothes
17 had been disheveled in any way, would you have
18 noticed it?

19 A. From that view, probably not, in my recollection.

20 Q. Okay.

21 MR. ARDITO: Redirect, your Honor?

22 THE COURT: Yep.

23 MR. ARDITO: Recross.

24 RECROSS EXAMINATION

25 BY MR. ARDITO:

1 Q. Is it your testimony, detective, that on a rape
2 case if you have a video of someone walking away
3 from the incident, you're not looking at that
4 person?

5 A. I couldn't see with the clarity of the film, to
6 my recollection, and I only seen the tape for a
7 short time. I'm not the investigating detective.

8 Q. So --

9 MR. ARDITO: No further questions.

10 THE COURT: Okay.

11 MS. VEENSTRA: Nothing further.

12 THE COURT: Thank you very much. You
13 may step down.

14 MS. VEENSTRA: Deputy Chief Louis
15 Pacheco. Your Honor, I would be offering this
16 evidence just to describe the technology for the
17 Court.

18 THE COURT: Okay.

19 LOUIS PACHECO, Sworn

20 DIRECT EXAMINATION

21 BY MS. VEENSTRA:

22 Q. Could you please introduce yourself for the
23 record?

24 A. My name is Louis, L-O-U-I-S, Pacheco,
25 P-A-C-H-E-C-O. I'm a police officer in the Town

1 of Raynham, and I currently hold the rank of
2 deputy chief.

3 Q. How long have you been with the Raynham Police
4 Department?

5 A. Approximately thirty years.

6 Q. And let me ask you, what is REACT, R-E-A-C-T?

7 A. REACT is a Regional Electronic and Computer
8 Crimes task force stationed in Raynham. It has
9 about twenty-eight different agencies involved,
10 and we deal with computer and video forensics.

11 Q. And what is a multiplex system, if you can?

12 A. Basically it's recording; and when talking about
13 video, it's recording multiple images to the same
14 tape from different cameras.

15 Q. And would that be a normal videotape that it's
16 recorded on?

17 A. Could be, yes.

18 Q. If one tried to view a videotape in which a
19 number of images were depicted on that same tape,
20 what would one see?

21 A. If you used a normal VCR, you'd see a fast
22 collage of pictures go by the screen.

23 Q. Would it be fair to say that they may not be
24 decipherable?

25 A. They wouldn't be until you slowed the speed up on

1 the VCR, yes.

2 Q. And is it more involved than just slowing it, or
3 do you have to isolate, or can you describe what,
4 if any, procedure you would go through to
5 retrieve images?

6 A. Well, basically a video image is laid down at
7 30 -- 29.97 frames per second when you watch a
8 regular video, normal regular video. Obviously
9 the tapes are only two hours long. So, if you
10 want to put multiple cameras on, you can't keep
11 thirty frames per second because the tape would
12 only last two hours for one camera and more for
13 more cameras. So, the technology of a multiplex
14 system picks certain frames which are made from
15 two fields, the odd and the even, and lay them
16 down on the videotape as it runs depending on --
17 and how many frames you get laid on depends on
18 how long the time lapse is. So, if you had your
19 tape on for forty-eight hours, you're taking a
20 two hour tape and laying down forty-eight hours
21 of pictures. If you have your system set up for
22 twenty-four hours, then you're putting
23 twenty-four hours of pictures on two hours.

24 THE COURT: And how does the machine
25 pick the frame? Is it a time issue, or is it by

1 if there's movement?

2 THE WITNESS: It's generally a time
3 issue, your Honor. However, it could be set by
4 the operator. Different systems -- for instance,
5 if you had a camera setting up in this particular
6 courtroom, you may want the camera that's got the
7 witness on it more than the camera that's taking
8 the back of the thing. So, you adjust it so so
9 many frames get recorded from that camera.
10 Depending on how the system is set up, you could
11 adjust it manually. Most just rotate around. A
12 frame, a frame, a frame, a frame.

13 Q. So, with those systems, is it fair to say that
14 you may not have or probably would not have
15 continuous coverage of one particular location?

16 A. Absolutely true.

17 Q. At some point, deputy chief, were you asked to
18 assist Sergeant --

19 THE COURT: Let me just ask another
20 question before you go from that. So, if you
21 have a system where you've let's just say put in
22 a two hour tape to take an eight hour shift, that
23 tape is going to cover the whole eight hours, but
24 it's going to record the frames as it has been
25 told to pick those frames?

1 THE WITNESS: Yes, as it's been told to
2 depict them, and so many frames to make it fill
3 the eight hours.

4 THE COURT: Right.

5 THE WITNESS: So, if it was a
6 twenty-four hour tape, you'd have less frames.
7 You'd have one frame, for instance, every three
8 seconds. If it was forty-eight, you'd have one
9 frame every six seconds.

10 THE COURT: So, if you have a system
11 like the one that was involved in this case where
12 there are six VCR screens that you can look at of
13 these cameras taking the videos, and they're
14 recording however they're set up on the time,
15 each of those screens is going to cover -- the
16 tapes for those VCRs is going to cover the period
17 that it's set for? Am I making myself clear?

18 THE WITNESS: It will cover the period
19 of time, and depending on the settings of the
20 unit, which I never saw, it would -- how many
21 frames you get per second. So, you could get --
22 you're supposed to get 29.97 frames per second.
23 As you extend that tape over two hours, that
24 drops down to -- some systems you only get one
25 frame every ten seconds.

1 THE COURT: But you could cover -- you
2 could set it to cover eight hours or twenty-four
3 hours or forty-eight hours?

4 THE WITNESS: Yes, ma'am. Yes, your
5 Honor.

6 THE COURT: Okay.

7 Q. And do you know what, if any, setting was in
8 place with regard to an alleged incident at
9 Armored Motor Services of America in May of 2001?

10 A. I have no personal knowledge of what the settings
11 were or anything. I may -- you may get some
12 information off of the tape that we did.

13 However, those are adjustments that are made at
14 the system. You would have to go to the scene
15 and look.

16 Q. And you were actually asked by the Attleboro
17 Police Department to assist them in retrieving
18 some images; is that right?

19 A. Yes, I was.

20 Q. And were you able to retrieve some images which
21 appear to depict a male and female walking down a
22 hallway at that location?

23 A. Yes, I did.

24 Q. And were you also able to retrieve some
25 depictions of a female working near a door with a

1 soda and some voices in the background?

2 A. Yes, I was.

3 Q. And were you working with three tapes when asked
4 to assist?

5 A. Yes.

6 Q. Were those tapes ultimately returned to the
7 Attleboro Police Department?

8 A. Yes.

9 Q. And you were able to provide a videotape of the
10 images that you were able to retrieve?

11 A. Yes. Generally at REACT what we do is the police
12 officers bring the tape in, make an appointment
13 to bring the tape in. We digitize the tape. So,
14 we take it from an analog signal to a digital
15 signal. Once you have it as a digital signal,
16 it's a data base, and you can play it, put it
17 back. You don't destroy the tape. On a regular
18 tape if you pause a regular tape or you do
19 anything with it, you're actually destroying the
20 tape, because the heads are still spinning, but
21 the tape's stopped. So, you're wearing off the
22 oxide. So, by digitizing it allows you to work
23 on it, you know, ad infinitum.

24 THE COURT: Do you recall what period
25 of time -- what the hours over which these --

1 that these tapes covered?

2 THE WITNESS: I don't recall that right
3 now, your Honor.

4 THE COURT: Do you recall whether they
5 were -- they each covered the same amount of
6 time?

7 THE WITNESS: The section that I looked
8 at, that I was asked to examine was relatively
9 the same amount of time, the same day and the
10 same hour.

11 THE COURT: On each tape?

12 THE WITNESS: On each tape.

13 THE COURT: Okay.

14 MS. VEENSTRA: I have no further
15 questions of this witness.

16 THE COURT: Mr. Ardito.

17 MR. ARDITO: Very briefly, judge.

18 CROSS EXAMINATION

19 BY MR. ARDITO:

20 Q. You were able to transcribe -- transpose one copy
21 of the tape for the Attleboro police, correct?

22 A. I didn't hear the question.

23 Q. I'm sorry. You were able to make a copy?

24 A. Yes. I changed the original tape to digital and
25 then played the digital back onto a VCR, which

1 you can have more copies or whatever you want.

2 Q. And during this process you were able to view the
3 three tapes that the Attleboro police took to
4 your office, correct?

5 A. Pieces of them. I didn't view the whole thing.

6 Q. You didn't view the whole thing?

7 A. No.

8 Q. And in your work, the only thing you were able to
9 copy for the Attleboro police was a couple
10 walking down an aisle?

11 A. That was what they had asked me to reproduce,
12 yes, sir.

13 Q. And there was a little conversation with the
14 alleged victim and a soda can and some voices in
15 the background, correct?

16 A. Yes, sir.

17 Q. There was nothing else on those tapes?

18 A. Not that I saw, sir.

19 MR. ARDITO: No further questions.

20 THE COURT: Ms. Veenstra?

21 MS. VEENSTRA: I have nothing further.

22 THE COURT: Thank you very much.

23 Anything further, Ms. Veenstra?

24 MS. VEENSTRA: No, your Honor.

25 THE COURT: Commonwealth rests?

1 MS. VEENSTRA: Yes, your Honor.

2 THE COURT: Mr. Ardito, anything
3 further?

4 MR. ARDITO: Just a closing regarding
5 the motion to dismiss, your Honor.

6 THE COURT: Okay. Why don't I hear
7 you.

8 MR. ARDITO: Briefly, again, we've
9 heard testimony from Chris Abreu the
10 Commonwealth's witness. He was the assistant
11 district attorney that at the time viewed the
12 tapes with myself. He testified under direct
13 examination that he saw Ms. Kiernan and Mr.
14 Ciambriello working together at a bench and then
15 get up and leave. In the grand jury
16 investigation, in this report she states that --
17 and I'm sure she's going to testify to -- that he
18 began his assault while they were sitting down.
19 That he had his arms around her, he had his legs
20 around her, he was unbuttoning her blouse, he was
21 biting her, he was massaging her. We just heard
22 from the district attorney who said that he would
23 have testified that that would have happened,
24 that they were working together, they got up, and
25 they left. It's issues like that that make the

1 losing of this tape so prejudiced.

2 Again, on the tape and ultimately grand
3 jury testimony, Ms. Kiernan calls a friend of
4 hers who arrives. And we heard testimony that
5 Mr. Saunders -- Mr. Abreu saw this young lady
6 show up, and they were outside. The tape clearly
7 showed that they were smoking outside, and they
8 described that in their grand jury testimony.
9 Then this young lady goes into the building with
10 the alleged victim, and they're all sitting
11 together. Then this lady leaves of course, and
12 the rest is not on the tape. The tapes clearly
13 showed when we saw them that there was a
14 cafeteria where Mr. Ciambriello asked her for
15 soda, and she says she -- she says in the grand
16 jury report that that never happened. Yet we saw
17 her with a can of soda after the incident.

18 These tapes are vitally important to
19 any defense we have. You couldn't possibly
20 cross-examine any witness thoroughly unless we
21 had these tapes. They show a completely
22 different picture. They show the demeanor which
23 was asked for, and I state that in my motion when
24 one of the grand jurors asked the police what was
25 her facial expression like. I disagree with the

1 detective. I mean it was clear when she left the
2 ladies room. Certainly I would think a jury
3 would want to see this four or five minute
4 interlude, what she looked like when she walked
5 out; and the camera was clearly on her face,
6 clearly on her body. She turned into the camera
7 and walked to the ladies room. Without these
8 tapes, we are crippled, judge. We need these
9 tapes to try the case.

10 Now, if they were lost by the police
11 department, if there was a mishandling between
12 the district attorney's office and the police
13 department, then so be it. This case should be
14 dismissed. There is case law. I cite case law.
15 This case should not go forward. You've
16 handcuffed us.

17 THE COURT: Mr. Ardito, what I
18 understood from these witnesses is that the tapes
19 that you do have or the piece that you do have
20 covers the whole period of time when she was --
21 when Ms. Kiernan and Mr. --

22 MR. ARDITO: It's Ms. Kiernan and Mr.
23 Ciambriello, your Honor.

24 THE COURT: -- Ciambriello were at the
25 facility that night. It just doesn't give the

1 same views that you're talking about.

2 MR. ARDITO: No, your Honor.

3 THE COURT: Do you agree with that?

4 MR. ARDITO: No, I disagree. The views
5 we're talking about are on the three tapes that
6 were never transcribed.

7 THE COURT: No, no, no, I understand
8 that. What you're saying is there were views on
9 other tapes --

10 MR. ARDITO: Correct.

11 THE COURT: -- that were not
12 transcribed. But these tapes that they do have
13 and were transcribed cover the same period of
14 time.

15 MR. ARDITO: They can't, because there
16 are other people in the other tapes. How can
17 they cover the same period of time?

18 THE COURT: I understood Chief Pacheco
19 to say that the way this system works, each of
20 the tapes that he looked at covered the same
21 period of time before and after the alleged
22 assault.

23 MR. ARDITO: Then --

24 THE COURT: But they don't show what
25 you say the other tape shows. So, they don't

1 show the same views, but they cover the same
2 period of time. You say that's not correct?

3 MR. ARDITO: I disagree, because I know
4 what I saw. We saw other tapes.

5 THE COURT: But do you understand my
6 question?

7 MR. ARDITO: Yes. Yes, and I disagree
8 with the chief.

9 THE COURT: Okay. All right.

10 MR. ARDITO: How is that possible, your
11 Honor? He's showing us he transcribed a period
12 of time that they were working, that they walked
13 from room 1 to room 2 and down the aisle. Then
14 he goes back to I believe it's 1900 and -- I
15 forgot the exact time -- where again she's
16 working with another person. Where is -- I mean
17 he himself testified that if there were any
18 images, he would have picked them out.

19 THE COURT: That's what I'm saying.
20 The views that you say you saw are not on these
21 tapes.

22 MR. ARDITO: Correct.

23 THE COURT: But that doesn't mean that
24 it doesn't cover the whole period of time that
25 you're concerned about. These tapes cover the

1 same period of time.

2 MR. ARDITO: Yes.

3 THE COURT: Okay.

4 MR. ARDITO: Yes.

5 THE COURT: All right. Okay.

6 MR. ARDITO: Now I understand.

7 THE COURT: Ms. Veenstra.

8 MS. VEENSTRA: Thank you, your Honor.

9 I'd ask your Honor not to dismiss this case. I
10 know that counsel is asking for a dismissal. I'd
11 suggest that that is a drastic remedy in a case
12 in which it comes down -- the central issue in
13 this case is what happened when they went into
14 that room and were in that room for five
15 minutes. That has always been the issue in this
16 case, and that is the central issue.

17 The cases that talk about dismissal is
18 when the defendant is foregone from any possible
19 defense or a theory of defense. Counsel has
20 suggested I know to me that this is an issue of
21 consent, and the issues that he raises for
22 reasons to need the tape, your Honor, I believe
23 are adequately addressed in my motion. It is
24 much conduct that the alleged victim herself has
25 already testified to under oath. For example, if

1 the witness says as she initially did to the
2 police that she was dragged into that room, she
3 testified before the grand jury that she was not
4 in fact dragged. I believe she indicated that
5 she was guided. She cannot now come before any
6 court and reasonably be expected to say that she
7 was dragged. The alleged victim in this case
8 actually admitted that she was allowed outside by
9 the defendant who had to buzz her out to smoke
10 and talk with her friend. That is not something
11 she can now deny. So that, the issue -- the
12 depiction on the tape of them walking down the
13 hallway I'd suggest is important. The depiction
14 of her talking and working with the defendant
15 after the alleged incident is very important to
16 the defendant obviously. Those important
17 depictions will be before the fact finder.

18 Counsel suggests a very drastic
19 remedy. I suggest to the Court that there are
20 less drastic remedies. If this Court were to
21 find that some remedy -- this defendant needs
22 some remedy to get a fair trial, the cases that
23 the Commonwealth and I believe the defendant
24 cite, there are other alternatives. The Court
25 can obviously consider suppression of any of that

1 testimony, any testimony regarding what was
2 depicted on the tapes like the tapes never
3 existed. Tactically for a defendant I would
4 suggest that that would be his call. Or the
5 Court's. There is I think possible based on
6 testimony here that there may be a way to
7 stipulate as to what was depicted on those tapes
8 and put that before the fact finder. Counsel has
9 not suggested to me -- and I think he may be in a
10 difficult position because he may be a witness,
11 but he has not suggested to me that what was --
12 what has been described as depicted is different
13 than his recollection. So that, a stipulation
14 may be possible. Counsel with a stipulation
15 could also have curative or a sort of instruction
16 by the Court that any discrepancy or doubt as to
17 what was depicted on the missing evidence would
18 be in the defendant -- would need to be in favor
19 of the defendant. And counsel could lastly argue
20 that the Commonwealth has lost evidence.

21 So, I'd suggest that the remedy counsel
22 seeks here is drastic, and I'd ask the Court not
23 to dismiss the case, but allow this case to go to
24 trial and to allow the alleged victim her day in
25 court. Thank you.

1 THE COURT: Thank you very much.

2 MR. ARDITO: Your Honor, I have a last
3 minute motion -- I don't know if it reached the
4 Court -- regarding --

5 THE COURT: I'm sorry. What?

6 MR. ARDITO: I'm sorry, your Honor. I
7 filed a last minute motion last week knowing we
8 were going to be here today about a gag order.
9 Apparently I've got every TV station in the
10 neighborhood in the State of Rhode Island and
11 Massachusetts contacting both the defendant
12 and -- the victim is giving interviews about how
13 these lost tapes are going to hurt her in a civil
14 lawsuit. I filed a motion. I'd like to have
15 this stop. It's bad enough we don't have the
16 tapes. Now she's out there saying she'll never
17 get a fair trial. So, if there's any way we
18 could --

19 THE COURT: Okay. Ms. Veenstra, do you
20 have a position on this?

21 MS. VEENSTRA: Your Honor, I don't. I
22 can tell the Court that there have been a number
23 of statements. This case has garnered some
24 press. We are scheduled for trial on September
25 9th. I'd leave that to the Court's discretion.

1 THE COURT: Okay. I don't have it in
2 the file, but we'll find it, and I'll rule on it.


3 MR. ARDITO: Thank you, judge.

4 THE COURT: Okay.

5 (The Court recessed at 11:50 a.m.)
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CERTIFICATE

I, Lori R. Saulnier, Official Court Reporter, do hereby certify that the foregoing record, Pages 1 through 82, is a complete, accurate, and true transcription of my stenographic notes taken in the aforementioned matter to the best of my skills and ability.


LORI R. SAULNIER
Official Court Reporter

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